

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Randy Allen McElhaney,

Plaintiff,

Case No. 21-cv-13021

v.

Judith E. Levy
United States District Judge

Heidi E. Washington, *et al.*,

Mag. Judge David R. Grand

Defendants.

_____/

ORDER ADOPTING REPORT AND RECOMMENDATION [28]

Before the Court is Magistrate Judge David R. Grand's Report and Recommendation ("R&R") (ECF No. 28) recommending that the motion to dismiss filed by Defendants Corizon Health, Inc., Jordan Block, and Donna Rohrs (ECF No. 20) be GRANTED IN PART AND DENIED IN PART. In their motion, Defendants seek dismissal of Plaintiff Randy Allen McElhaney's Eighth Amendment deliberate indifference claim. The R&R recommends that the motion be granted as to McElhaney's Eighth Amendment claim against Corizon Health, Inc. and Block and that the motion be denied as to McElhaney's Eighth Amendment claim against Rohrs. The parties were required to file specific written objections, if any,

within fourteen days of service. Fed. R. Civ. P. 72(b)(2); E.D. Mich. LR 72.1(d). No objections were filed. The Court has nevertheless carefully reviewed the R&R and concurs in the reasoning and result. Accordingly,

The R&R (ECF No. 28) is ADOPTED; and

Defendants' motion to dismiss (ECF No. 20) is GRANTED IN PART AND DENIED IN PART. The motion is granted as to McElhaney's Eighth Amendment claim against Corizon Health, Inc. and Block. The motion is denied as to McElhaney's Eighth Amendment claim against Rohrs.¹

As stated in the R&R, "Defendants d[id] not move for dismissal of McElhaney's gross negligence claim. Thus, the Court need not consider the merits of such a claim at this time." (ECF No. 28, PageID.312 n.5.)

IT IS SO ORDERED.

Dated: September 20, 2023
Ann Arbor, Michigan

s/Judith E. Levy
JUDITH E. LEVY
United States District Judge

¹ By failing to object to the Report and Recommendation, the parties have forfeited any further right of appeal. *United States v. Wandahsega*, 924 F.3d 868, 878 (6th Cir. 2019); *see also Berkshire v. Beauvais*, 928 F.3d 520, 530 (6th Cir. 2019).

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or first-class U.S. mail addresses disclosed on the Notice of Electronic Filing on September 20, 2023.

s/William Barkholz
WILLIAM BARKHOLZ
Case Manager